

NOTICES OF PROPOSED RULEMAKING

Unless exempted by A.R.S. § 41-1005, each agency shall begin the rulemaking process by first submitting to the Secretary of State's Office a Notice of Rulemaking Docket Opening followed by a Notice of Proposed Rulemaking that contains the preamble and the full text of the rules. The Secretary of State's Office publishes each Notice in the next available issue of the *Register* according to the schedule of deadlines for *Register* publication. Due to time restraints, the Secretary of State's Office will no longer edit the text of proposed rules. We will continue to make numbering and labeling changes as necessary.

Under the Administrative Procedure Act (A.R.S. § 41-1001 et seq.), an agency must allow at least 30 days to elapse after the publication of the Notice of Proposed Rulemaking in the *Register* before beginning any proceedings for adoption, amendment, or repeal of any rule. A.R.S. §§ 41-1013 and 41-1022.

NOTICE OF PROPOSED RULEMAKING

TITLE 7. EDUCATION

CHAPTER 1. STATE BOARD OF DIRECTORS FOR COMMUNITY COLLEGES OF ARIZONA

PREAMBLE

- | | |
|------------------------------------|---------------------------------|
| <u>1. Sections Affected</u> | <u>Rulemaking Action</u> |
| R7-1-712 | New Section |
| R7-1-713 | New Section |
- 2. The specific authority for the rulemaking, including both the authorizing statute and the statutes the rules are implementing:**
- Authorizing statute: A.R.S. § 15-1424
- Implementing statute: A.R.S. § 15-1424
- 3. A list of all previous notices appearing in the Register addressing the proposed rule:**
- Notice of Rulemaking Docket Opening: 6 A.A.R. 1804, May 19, 2000
- 4. The name and address of agency personnel with whom persons may communicate regarding the rulemaking:**
- Name: Thomas J. Saad, Associate Executive Director
- Address: State Board of Directors for Community Colleges
3225 N. Central Ave., Suite 1220
Phoenix, AZ 85012
- Telephone: (602) 255-4037
- Fax: (602) 279-3464
- 5. An explanation of the rule, including the agency's reasons for initiating the rule:**
- R7-1-712. The rule establishes the approval process whereby a community college district may deliver educational services within the boundaries of another community college district. It authorizes the payment of state aid for credit courses generated within the context of this rule and it requires State Board approval for tuition and fees for said courses. The rule is necessary to clearly establish the State Board's authority to determine when it is in the best interests of students, taxpayers, and the state, to allow a district to offer credit courses within the boundaries of another community college district.
- R7-1-713. The rule establishes guidelines whereby a community college may provide credit courses within another state or country, including courses delivered by technology at designated receive sites. Requires Intergovernmental Agreements or contracts that must be approved by the State Board. State Board must approve tuition and fees, and state aid may not be claimed for these courses.

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6. A reference to any study that the agency proposes to rely on its evaluation of or justification for the proposed rule and where the public may obtain or review the study, all data underlying each study, any analysis of the study and other supporting material:

None

7. A showing of good cause why the rule is necessary to promote a statewide interest if the rule will diminish a previous grant of authority of a political subdivision of this state:

The new Sections will not diminish the authority of college districts. They have been operating under similar, but less formal provisions.

8. The preliminary summary of the economic, small business, and consumer impact:

The proposed rule will not adversely impact small business or consumers.

9. The name and address of agency personnel with whom persons may communicate regarding the accuracy of the economic, small business, and consumer impact statement:

Name: Thomas J. Saad, Associate Executive Director
Address: State Board of Directors for Community Colleges
3225 N. Central Ave., Suite 1220
Phoenix, AZ 85012
Telephone: (602) 255-4037
Fax: (602) 279-3464

10. The time, place, and nature of the proceedings for the adoption, amendment, or repeal of the rule or, if no proceeding is scheduled, where, when and how persons may request an oral proceeding on the proposed rule:

Oral Proceedings are scheduled as follows:

Date: August 18, 2000
Time: 1:00 p.m.
Location: Yavapai County Community College District
100 East Sheldon
Prescott, AZ

11. Any other matters prescribed by statute that are applicable to the specific agency:

None

12. Incorporations by reference and their location in the rules:

None

13. Full text of the rules follows:

TITLE 7. EDUCATION

CHAPTER 1. STATE BOARD OF DIRECTORS FOR COMMUNITY COLLEGES OF ARIZONA

ARTICLE 7. INSTRUCTION, FACULTY, AND STAFF

Section

R7-1-712. Providing Community College Credit Courses in Another Community College District
R7-1-713. Providing Community College Credit Courses in Another State or Country

ARTICLE 7. INSTRUCTION, FACULTY, AND STAFF

R7-1-712. Providing Community College Credit Courses in Another Community College District

A. A community college district (offering district) may not provide credit courses at a location in another community college district (affected district), unless prior to the delivery of classes the offering district has received authorization for such courses from the State Board in accordance with the following procedure.

1. Except as provided herein, the offering district shall notify the State Board and the affected district(s) of its intent to request the State Board authorization to provide credit courses at a location in the affected district(s) as soon as feasible and not less than 45 days prior to the date of the State Board meeting at which the request will be considered. If the affected district agrees in writing to less than 45 days notice the offering district shall notify the State Board not less than 30 days prior to the date of the State Board meeting at which the request will be considered.

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2. No later than 15 days prior to the date of the State Board meeting at which the request will be considered the affected district(s) governing board shall state its support for or objection to the proposed authorization for the offering of credit courses in its district, and its reasons or its position.
3. The State Board shall consider the support or objection of the affected district(s) along with the rationale of the offering district in determining if the requested authorization is to be granted. In reaching its decision as to the best interest of the state, the State Board shall be guided by the application of the following criteria:
 - a. The identified community, state, regional, or national need for the course;
 - b. The ability of the offering district to provide a unique or superior course, or to provide it in a manner that results in a superior service;
 - c. The ability and desire of the affected district to provide the proposed course in a manner that satisfies the identified need; and
 - d. Any adverse impact of the proposed course on existing programs or services of the affected district or the other Arizona community college districts.
- B.** For all credit courses covered by this rule
 1. The State Board shall approve tuition and fees.
 2. State Aid may be claimed.
 3. An annual report for the previous fiscal year shall be submitted to the State Board by September 1 of each year. The annual report shall include location, credit courses offered, and enrollment.
- C.** Community college credit courses provided in another Arizona community college district via distance education technology to a designated receive site (such as a distance education classroom or an audio or videoconference site) are subject to the provisions of this rule.
- D.** Community college districts providing credit courses at a distance that can be accessed by individuals at non-designated receive sites (such as internet or correspondence) are not subject to the provisions of this rule but shall follow the provisions of R7-1-714.

R7-1-713. Providing Community College Credit Courses in Another State or Country

- A.** A community college district (offering district) may offer credit courses in another state or country, including courses and services delivered in whole or in part through educational technology requiring a designated receive site, as follows:
 1. A written agreement or contract, or where required by statute (A.R.S. § 11-952 through 11-954, Intergovernmental Agreement Provisions), an Intergovernmental Agreement shall be completed between the offering district and any out-of-state public agency and submitted for State Board approval prior to any services being provided.
 2. A contract shall be completed between the offering district and any nonpublic/private entity with specific reference to R7-1-506 (Contracting with Private Schools for Educational Services) and A.R.S. § 15-1424.B.4 (General Powers of the State Board) and submitted for State Board approval prior to any services being provided.
- B.** For all services covered by this rule:
 1. Credit may be awarded by the district on curriculum approved by the State Board.
 2. State aid may not be claimed.
 3. An annual report for the previous fiscal year shall be submitted to the State Board by September 1 of each year. The annual report shall include location, credit courses offered, and enrollment.
- C.** The offering district shall inform the State Board of any changes in the scope of services authorized pursuant to this rule. Upon a change in the plan or 5 years from the most recent approval of the plan by the State Board, whichever occurs first, the offering district shall resubmit the plan for State Board review and approval.
- D.** Courses delivered via educational technology methods that do not require a designated receive site are exempt from this rule, but are subject to R7-1-714.

NOTICE OF PROPOSED RULEMAKING

**TITLE 14. PUBLIC SERVICE CORPORATIONS; CORPORATIONS AND ASSOCIATIONS;
SECURITIES REGULATION**

CHAPTER 4. CORPORATION COMMISSION - SECURITIES

PREAMBLE

1. Sections Affected

R14-4-104
R14-4-126

Rulemaking Action

Amend
Amend

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2. The specific authority for the rulemaking, including both the authorizing statute (general) and the statutes the rules are implementing (specific):

Authorizing statutes: A.R.S. §§ 44-1821 and 44-1848

Implementing statutes: A.R.S. §§ 44-1842, 44-1843, 44-1844

Constitutional authority: Arizona Constitution Article XV §§ 4, 6, and 13

3. A list of all previous notices appearing in the Arizona Administrative Register.

Notice of Rulemaking Docket Opening: 6 A.A.R. 796, February 25, 2000

4. The name and address of agency personnel with whom persons may communicate regarding the rulemaking:

Name: Kurt Merritt, Assistant General Counsel

Address: Arizona Corporation Commission, Securities Division
1300 W. Washington, Third Floor
Phoenix, AZ 85007-2996

Phone: (602) 542-4242

Fax: (602) 594-7470

5. An explanation of the rules, including the agency's reasons for initiating the rules:

A.A.C. R14-4-104 ("rule 104") requires dealers and salesmen to register with the Commission prior to engaging in transactions otherwise exempt under A.R.S. §§ 44-1843 and 44-1844. The proposed amendments remove a redundant registration requirement, add a class of transactions that is otherwise exempt from dealer and salesman registration requirements, and reorganize and renumber the rule.

Under § 44-1843(A)(6) dealers and salesmen are not required to register prior to engaging in transactions involving securities issued by certain charitable organizations. Specifically excluded from the exemption, however, are securities issued by nonprofit organizations that are engaged in the construction or operation of various health care facilities. Current rule 104 contains a duplicate (and therefore redundant) registration requirement for dealers and salesmen prior to selling securities issued by nonprofit organizations engaged in the construction or operation of these health care facilities. The amendment removes this unnecessary restatement of the registration requirement for dealers and salesmen.

Amended rule 104 will also require dealers and salesmen to register prior to engaging in transactions in securities otherwise exempt under A.R.S. § 44-1844(A)(18). Rule 104 is also edited for clarity, reorganized, and renumbered.

Rule 126 is amended to correct a reference to the amended rule 104.

6. Reference to any study that the agency proposes to rely on in its evaluation of or justification for the proposed rules and where the public may obtain or review the study, all data underlying each study, any analysis of the study, and other supporting material.

None

7. A showing of good cause why the rules are necessary to promote a statewide interest if the rules will diminish a previous grant of authority of a political subdivision of this state:

The proposed rule will not diminish a previous grant of authority of a political subdivision of this state.

8. The preliminary summary of the economic, small business, and consumer impact:

The economic, small business, and consumer impact statement for rule 104 analyzes the costs, savings, and benefits that accrue to the Commission, the Office of the Attorney General, the regulated public, and the general public. With the adoption of the proposed rule, the impact on established Commission procedures, Commission staff time, and other administrative costs is minimal. The estimated additional cost to the Office of the Attorney General is minimal. The benefits provided by rule 104 are nonquantifiable. Rule 104 should benefit the Commission's relations with the regulated public because of increased uniformity of regulations. The Commission anticipates that the proposed rule-making will not significantly increase monitoring, recordkeeping, or reporting burdens on businesses or persons. The costs of implementation or enforcement are not increased or are only marginally increased.

9. The name and address of agency personnel with whom persons may communicate regarding the accuracy of the economic, small business, and consumer impact statement:

Name: Kurt Merritt, Assistant General Counsel

Address: Arizona Corporation Commission, Securities Division
1300 W. Washington, Third Floor

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Phoenix, AZ 85007-2996

Phone: (602) 542-4242

Fax: (602) 594-7470

10. The time, place, and nature of the proceedings for the adoption, amendment, or repeal of the rules, or, if no proceeding is scheduled, where, when, and how persons may request an oral proceeding on the proposed rules:

Date: July 13, 2000

Time: 10:00 a.m.

Location: Arizona Corporation Commission
1300 West Washington Avenue, 3rd Floor
Phoenix, Arizona 85007

Nature: Oral proceeding. Subsequent to the oral proceeding, the Arizona Corporation Commission will take final action at an open meeting with respect to the making of the proposed rule.

11. Any other matters prescribed by statute that are applicable to the specific agency or to any specific rule or class of rules:

None

12. Incorporations by reference and their location in the rules:

None

13. The full text of the rules follows:

**TITLE 14. PUBLIC SERVICE CORPORATIONS; CORPORATIONS AND ASSOCIATIONS;
SECURITIES REGULATION**

CHAPTER 4. CORPORATION COMMISSION - SECURITIES

ARTICLE 1. IN GENERAL RELATING TO THE ARIZONA SECURITIES ACT

Section

R14-4-104. Registration Required of Dealers and Salesmen Otherwise Exempt Under A.R.S. §§ 44-1843 and 44-1844

R14-4-126. Limited Offerings; Definitions

ARTICLE 1. IN GENERAL RELATING TO THE ARIZONA SECURITIES ACT

R14-4-104. Registration Required of Dealers and Salesmen Otherwise Exempt Under A.R.S. §§ 44-1843 and 44-1844

~~No dealer or salesman as defined in A.R.S. § 44-1801 shall engage in the following transactions unless such dealer or salesman is registered pursuant to Article 9 of this Chapter. Notwithstanding A.R.S. §§ 44-1843 and 44-1844, a dealer or salesman shall register under A.R.S. Title 44, Chapter 12, Article 9, before engaging in transactions in any of the following:~~

- ~~1. Securities exempt from registration under A.R.S. § 44-1843(A)(1), except a dealer or salesman shall not be required to register before engaging in transactions in securities issued or guaranteed by the United States. Transactions involving securities exempt from registration pursuant to A.R.S. § 44-1843(7) being securities listed, or approved for listing upon the issuance thereof upon the New York stock exchange, the American stock exchange, Midwest stock exchange and any other national securities exchanges registered under the Securities Exchange Act of 1934 as may hereafter from time to time be designated by order of the Commission and securities designated or approved for designation on notice of issuance on the National Market System of the National Securities Association registered under the Securities Exchange Act of 1934, and all securities senior or equal in rank to any securities so listed or approved for listing, designated or approved for designation, or represented by subscription rights or warrants which have been so listed, designated or approved for listing and any warrant or right to purchase or subscribe to any of the foregoing. No dealer or salesman shall, however, be required to register for the purpose of selling or offering to sell that portion of an offering of securities so listed, designated or approved for listing which is directed to securities holders or employees of an issuer when the offering is made by the issuer, or is made by a dealer or salesman acting without compensation other than a reasonable standby charge applicable to such securities by virtue of a distribution agreement relating to any balance of the offering remaining unsubscribed by existing securities holders or employees of the issuer.~~
- ~~2. Securities exempt from registration under A.R.S. § 44-1843(A)(7). However, a dealer or salesman shall not be required to register before engaging in transactions directed to existing securities holders, to employees of the issuer,~~

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or to employees of a wholly-owned subsidiary of the issuer if the subsidiary was not created to avoid the registration provisions of the Securities Act, and in which either of the following apply:

- a. The offering is made by the issuer.
- b. The offering is made by a dealer or salesman acting without compensation, other than a reasonable standby charge authorized under the distribution agreement concerning any remaining balance of the offering not purchased or subscribed by existing securities holders or employees of the issuer or its wholly-owned subsidiary.

~~Transactions involving securities exempt from registration pursuant to A.R.S. § 44-1844(4), being securities sold in an isolated transaction by or on behalf of the bona fide owner thereof. No dealer or salesman shall, however, be required to register for the purpose of acting without compensation as an agent for an owner or owners in an isolated transaction which is not made directly or indirectly for the benefit of the issuer or underwriter, and which dealer or salesman does not engage in or offer to engage in repeated and successive transactions of a similar character. Repeated and successive transactions of a similar character are deemed to include transactions by a dealer or salesman acting as agent for, or dealing in the securities owned by, 1 or more owners, whether the securities are of the same or different issuers, in transactions recurring within such intervals of time as to reasonably indicate continuity or an association of acts.~~

- ~~3. Securities exempt from registration under A.R.S. § 44-1843(A)(9). Transactions involving securities exempt from registration pursuant to A.R.S. § 44-1844(11), being securities theretofore sold and distributed to the public and concerning which information appears in a recognized manual of securities at the time of sale.~~
- ~~4. Securities transactions exempt from registration under A.R.S. § 44-1844(A)(1), R14-4-126(E) or R14-4-126(F) if the dealer or salesman is engaged principally and primarily in the business of making a series of private offerings. For the purposes of this Section, "series" means in excess of 4 private offerings within, from or outside Arizona in any consecutive 12-month period. Transactions involving securities issued by a nonprofit organization which is engaged in or intends to engage in the construction, operation, maintenance, or management of a hospital, sanitarium, rest home, clinic, medical hotel, cemetery or mausoleum, pursuant to the provisions of A.R.S. § 44-1843(6).~~
- ~~5. Securities transactions exempt from registration under A.R.S. § 44-1844(A)(4) if the dealer or salesman receives compensation or engages or offers to engage in repeated or successive transactions of a similar character. "Repeated or successive transactions of similar character" include transactions that occur sufficiently close in time to reasonably indicate continuity or association, whether the transactions are made on behalf of 1 or more securities owners, and whether the securities are of the same or different issuers. Transactions involving securities issued or guaranteed by any state or territory, or any political subdivision of such state or territory, or by the District of Columbia, or by any agency or instrumentality of 1 or more of any of the foregoing.~~
- ~~6. Securities transactions exempt from registration under A.R.S. § 44-1844(A)(11). Transactions involving securities issued or guaranteed by any foreign government or by a political subdivision of a foreign government.~~
- ~~7. Securities transactions exempt from registration under A.R.S. § 44-1844(A)(18). Transactions involving securities exempt from registration pursuant to A.R.S. § 44-1844(1), being transactions by an issuer not involving any public offering. No dealer or salesman, however, shall be required to register unless such dealer or salesman is engaged principally and primarily in the business of making a series of private offerings. For the purposes of this paragraph "series" means in excess of 4 private offerings in any consecutive 12-month period occurring after the effective date of this rule.~~

R14-4-126. Limited Offerings; Definitions

- A.** No change.
 1. No change.
 2. No change.
 3. No change.
 - a. No change.
 - b. No change.
 - c. No change.
- B.** No change.
 1. No change.
 - a. No change.
 - b. No change.
 - c. No change.
 - d. No change.
 - e. No change.
 - f. No change.
 - g. No change.
 - h. No change.
 2. No change.

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3. No change.
 4. No change.
 5. No change.
 - a. No change.
 - i. No change.
 - ii. No change.
 - iii. No change.
 - iv. No change.
 - b. No change.
 - c. No change.
 6. No change.
 7. No change.
 8. No change.
 - a. No change.
 - i. No change.
 - ii. No change.
 - iii. No change.
 - b. No change.
 - c. No change.
 - d. No change.
 - e. No change.
 - i. Relating to dealers under the Securities Act (See ~~R14-4-104(A)(7)~~ R14-4-104 with respect to dealer registration in Arizona), and
 - ii. No change.
 - f. No change.
 - g. No change.
- C.** No change.
1. No change.
 - a. No change.
 - b. No change.
 - c. No change.
 - i. No change.
 - ii. No change.
 - iii. No change.
 - iv. No change.
 - v. No change.
 2. No change.
 - a. No change.
 - b. No change.
 - i. No change.
 - ii. No change.
 - iii. No change.
 - iv. No change.
 - v. No change.
 - c. No change.
 - i. No change.
 - ii. No change.
 - iii. No change.
 - iv. No change.
 - d. No change.
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 - f. No change.
 - g. No change.
 - h. No change.
 3. No change.
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 - b. No change.
 4. No change.
 - a. No change.

- b. No change.
 - c. No change.
- D.** No change.
 - 1. No change.
 - a. No change.
 - b. No change.
 - 2. No change.
 - 3. No change.
 - 4. No change.
 - 5. No change.
 - 6. No change.
 - a. No change.
 - b. No change.
 - 7. No change.
- E.** No change.
 - 1. No change.
 - 2. No change.
 - a. No change.
 - b. No change.
 - c. No change.
 - 3. No change.
 - a. No change.
 - b. No change.
 - c. No change.
 - d. No change.
 - e. No change.
 - f. No change.
 - i. No change.
 - ii. No change.
 - iii. No change.
- F.** No change.
 - 1. No change.
 - 2. No change.
 - a. No change.
 - b. No change.
- G.** No change.
 - 1. No change.
 - 2. No change.
 - 3. No change.
 - a. No change.
 - b. No change.
 - c. No change.
- H.** No change.
 - 1. No change.
 - a. No change.
 - b. No change.
 - c. No change.
 - 2. No change.